IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 414 of 1987
Date of Decision: 29.8.2007

Rai Singh and another ....Appellant

Versus

Kishan Gopal and others ...Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri R.S. Chahar, Advocate, for the appellant.

None for the respondents.

HEMANT GUPTA, J.

The present appeal by the owner and driver of the offending vehicle, is directed against the award of the Motor Accident Claims Tribunal, Rohtak (for short `the Tribunal') dated 21.1.1987, whereby the appellants were found liable to make the payment of compensation to the respondent-claimant on account of the injuries received by him in the motor vehicular accident.

On 7.3.1985, the claimant Kishan Gopal in the company of Amar Singh was going on the left side of the road from Silani Gate, Jhajjar, when car bearing registration No. HRO-892 came from the opposite direction being driven in a rash and negligent manner and struck against the claimant and caused grievous injuries as a result whereof the claimant had to be operated upon and remained admitted in the hospital from 7.3.1985 to 17.4.1985.

The learned Tribunal has not believed the stand of the appellants that the offending car was not involved in the accident as the same was parked with the motor mechanic for about a year back. It was

found that the motor mechanic had not been examined and RW3-Hazari Lal, who has tested the vehicle after the accident, has given his report Exhibit R.1 to the effect that the defects in the car were as a result of accident and these were not prior to the accident. Thus, the Tribunal announced the award against the present appellants.

In the present appeal, the sole argument raised by the learned counsel for the appellants is that the car No. HRO-892 was not involved in the accident as it was with the mechanic for a year prior to the date of accident. He referred to the statement of Om Parkash (RW1), owner of the vehicle and Rai Singh (RW2), the driver of the vehicle. The testimony of the said witnesses stands rebutted from the testimony of RW3- Hazari Lal, who has been examined to prove his report (Exhibit R.1) submitted after conducting the test of the vehicle soon after the accident on 10.3.1985. As per the report Exhibit R.1, the defects in the car were as a result of accident and were not prior to the accident. Still further, the appellants have not produced the mechanic of the car with whom the vehicle was allegedly parked for a year. The entire evidence has been discussed by the learned Tribunal to return a finding that the driver was driving the vehicle in a rash and negligent manner.

Thus, the finding recorded by the learned Tribunal, cannot be said to be suffering from any patent illegality or irregularity, so as to warrant interference by this Court in the present appeal. Consequently, the present appeal is dismissed.

August 29, 2007 (HEMANT GUPTA)
ds JUDGE